

REMARKS

I. Status of the Claims

Claims 1-19 are pending in the application. Claims 1-3, 5-7, 9-11, 16 and 17 stand rejected, variously, under 35 U.S.C. §112, first paragraph (written description), second paragraph (indefiniteness), and for alleged obviousness-type double-patenting. The specific grounds for rejection, and applicants' response thereto, are set out in greater detail below.

II. Obviousness-Type Double-Patenting

Claims 1-3, 5, 6 and 7 stand rejected under the judicially-created doctrine of obviousness-type double-patenting over claims 1-4 of U.S. Patent 5,843,884, which are shown below:

1. A composition comprising molecules specifically modulating binding of CD59 to C9 selected from the group of molecules consisting of peptides of between 26 and 30 amino acids which bind to CD59 and molecules binding to C9 amino acid residues 359 to 384 (amino acid residues 381-406 of SEQ ID NO: 5).
2. The composition of claim 1 comprising molecules selected from the group of molecules consisting of peptides of between 26 and 30 amino acids comprising hu C9 amino acid residues 359 to 384 (amino acid residues 381-406 of SEQ ID NO: 5), anti-idiotypic antibodies immunoreactive with C9 amino acid residues 359 to 384 (amino acid residues 381-406 of SEQ ID NO: 5), and covalently cyclized peptides comprising hu C9 amino acid residues 359 to 384 (amino acid residues 381-406 of SEQ ID NO: 5).
3. The composition of claim 2 wherein the molecules are a peptide including amino acid residues 359 to 384 of hu C9 (amino acid residues 381-406 of SEQ ID NO: 5).
4. The composition of claim 1 further comprising a pharmaceutically acceptable carrier for administration to patients in need thereof.

During a telephonic interview held on April 24, 2006, the examiner indicated that the primary double-patenting issue derived from the anti-Id recitation in present claim 1. Applicants have canceled that subject matter from claim 1, and thus the believe the rejection has been overcome.

Reconsideration and withdrawal of the rejection, based on the foregoing, is respectfully requested.

III. Rejection Under 35 U.S.C. §112

A. Written Description

Claims 1, 2, 7, 10, 11, 16 and 17 stand rejected under the first paragraph of §112 as lacking an adequate written description. Applicants traverse the rejection, but in the interest of advancing the prosecution, the claims have been amended to delete reference to nucleic acid and small molecule “peptidomimetics.” Such amendments are made without prejudice to filing of subsequent continuing applications on this subject matter. Thus, applicants respectfully request reconsideration and withdrawal of the rejection.

B. Indefiniteness

Claims 1 and 10 are rejected as indefinite under the second paragraph of §112 for use of the abbreviate “anti-ID.” Applicants traverse, but this rejection is rendered moot by cancellation of that subject matter. Reconsideration and withdrawal of the rejection is therefore respectfully requested.

IV. Conclusion

In light of the foregoing, applicants respectfully submit that all claims are in condition for allowance, and an early notification to that effect is earnestly solicited. Should the examiner have any questions regarding this response, a telephone call to undersigned is invited.

Respectfully submitted,

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Date: May 24, 2006